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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/090,206

03/01/2002

Brian Kohne

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EXAMINER

HOSSAIN, FARZANA E

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

10/04/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/090,206

Applicant(s)

KOHNE, BRIAN

Examiner

Farzana E. Hossain

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 August 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to communications filed 08/03/2007. Claims 1 and 8-15 amended. Claims 2-7 and 16-20 are original. Claims 21-24 are new.

### ***Response to Arguments***

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Reynolds et al (US 2006/0010469 and hereafter referred to as "Reynolds").

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Regarding Claims 1, 8 and 15, Reynolds discloses a method, a computer readable medium, a method, a computer readable medium storing instructions that when executed by a processor, cause the process to perform the method (Page 8, paragraphs 0080, 0082, 0084, 0086, and system (Figure 4, Figure 5, Figure 1) comprising:

a first unit to receive input identifying a first broadcasted program (Figure 4, 22, 28, Figures 2a-d, 22, Figure 3a, Figure 3b);

a second unit to select content (Page 7, paragraph 0076, Figure 4, 40), based on the input, to be displayed in a background area of an interactive programming guide (Figures 3a, 3b, Figures 6, 7, 8a, Pages 8-9, paragraphs 0087, 0089-0091).

A third unit configured to display the selected content in the background area of the interactive programming guide, wherein the selected content is overlapped by information to the first broadcasted program (Pages 8-9, paragraphs 0087, 0089-0091, Figure 5, 42).

Regarding Claim 23, Reynolds discloses a method, comprising:

receiving input identifying a first broadcasted program (Figure 4, 22, 28, Figures 2a-d, 22, Figure 3a, Figure 3b, Page 8, paragraph 0090);

determining whether a background content selection feature for a hybrid guide to supplement interactive features of the passive guide is enabled by user indication (Page 8, paragraph 0089),

in response to determining the background selection feature is enabled (Page 8, paragraph 0089), selecting content (Page 7, paragraph 0076, Figure 4, 40), based on

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the identified first program, to be displayed in a background area of an interactive programming guide (Figures 3a, 3b, Figures 6, 7, 8a, 8b, Pages 8-9, paragraphs 0087, 0089-0091); and

displaying the selected content in the background area of the interactive programming guide, wherein the selected content is overlapped by information to the first broadcasted program (Pages 8-9, paragraphs 0087, 0089-0091, Figure 5, 42).

Regarding Claims 2, 9 and 16, Reynolds discloses all the limitations of Claims 1, 8 and 15 respectively. Reynolds discloses that the first broadcasted program is selected from a set of broadcasted programs displayed in the interactive programming guide (Page 9, paragraph 0098).

Regarding Claims 3, 10 and 17, Reynolds discloses all the limitations of Claims 1, 8 and 15 respectively. Reynolds discloses that the first broadcasted program is selected by a user of the interactive programming guide (Pages 8-9, paragraphs 0088-0090, 0091 0098, Figures 3a, 3b).

Regarding Claims 4, 11 and 18, Reynolds discloses all the limitations of Claims 1, 8 and 15 respectively. Reynolds discloses that the content includes an image from the first broadcasted program (Page 9, paragraph 0092).

Regarding Claims 5, 12 and 19, Reynolds discloses all the limitations of Claims 1, 8 and 15 respectively. Reynolds discloses the content includes information about a subject associated with the first broadcasted program (Pages 8-9, paragraphs 0088-0090, 0091 0098, Figures 3a, 3b).

Regarding Claims 6, 13 and 20, Reynolds discloses all the limitations of Claims 1, 8 and 15 respectively. Reynolds discloses that the content is selected based on a category of the first broadcasted program (Page 2, paragraph 0014, Figure 8b, Figure 12).

Regarding Claims 7 and 14, Reynolds discloses all the limitations of Claims 6 and 13 respectively. Reynolds discloses the content includes information about a subject associated with the category (Figure 8b, Figure 12, Figure 13).

Regarding Claim 21, Reynolds discloses all the limitations of Claim 15. Reynolds discloses the selected content is user generated or as the user selects or highlights a program the selected content is displayed based on the highlighting of the program (Pages 8-9, paragraphs 0089-0092, 0098).

Regarding Claim 22, Reynolds discloses all the limitations of Claim 1. Reynolds discloses the first broadcasted program corresponds to a sporting event and the selected content including on one or more sporting event scores for the same sport as the sporting event or selecting a football talk show which provides more information including sports scores (Page 9, paragraph 0094-0096).

Regarding Claim 24, Reynolds discloses all the limitations of Claim 23. Reynolds disclose determining whether a background selection feature is enabled further comprises determine whether content is available for selection or based on if the user selects hybrid guide for selection of the content of the overlay (Pages 8-9, paragraphs 0087, 0089-0091)

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farzana E. Hossain whose telephone number is 571-272-5943. The examiner can normally be reached on Monday to Friday 7:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FEH

September 25, 2007



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